

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JIMMIE LEWIS,	)	
	)	
Plaintiff,	)	C.A. No.: 04-1350 (GMS)
	)	
v.	)	
	)	
SYLVIA FOSTER, KATHYRN	)	
SHENEMAN, MICHAEL TALMO,	)	
DIANE STACHOWSKI, HELEN	)	
HANLON, MARGERET WILSON,	)	
MALE NURSE, DONNA LAWRENCE,	)	
GLORIA BANKS, FLORENCE SCOTT	)	
COBB, LANCE SAPERS, DAVE	)	
MOFFITT, R. GRAY, C. OATS, ROSE	)	
ARES, PAT RILEY, DR. OVRESHI,	)	
CURTIS CORNISH, KAREN	)	
CHAMBERLIN, SEGAL J., TANYA	)	
WILSON, J. CONYER, MR. JOHNSON,	)	
JOHN JOE,	)	
	)	
Defendants.	)	

**MOTION TO DISMISS COMPLAINT  
FOR LACK OF SUBJECT MATTER JURISDICTION**

Defendant, Sylvia Foster, M.D., hereby moves to dismiss the Complaint against her for lack of subject matter jurisdiction, and in support of her motion, states as follows:

1. A copy of the purported Complaint, along with the Civil Cover Sheet, is attached hereto as Exhibit "A".
2. Plaintiff has filed a document entitled "Additional Points to Support Motion Requesting Permission to Amend the Complaint" attached as Exhibit "B".
3. There is also another original Complaint filed in this matter in Civil Action No. 04-1350 (GMS) attached as Exhibit "C". The facts underlying Plaintiff's Complaint attached as Exhibit "A" are duplicative of the facts and allegations contained in the Complaint filed in Civil

Action No. 04-135 (GMS).

4. It appears that Plaintiff was attempting to file an Amended Complaint. The Motion to Amend the Complaint has never been granted to date. The Complaint that is designated in the original proceeding as shown in Exhibit "A" (without exhibits) should be dismissed since there is already a Complaint filed with the Court involving the exact same facts and allegations.

5. In addition, no service has been made to any of the parties regarding this purported original proceeding or Complaint renaming Sylvia Foster and attempting to name various other individuals as Defendants.

WHEREFORE, Defendant Sylvia Foster, M.D. requests the Court enter the Order attached hereto.

REGER RIZZO KAVULICH & DARNALL LLP

/s/ Cynthia G. Beam, Esquire  
Cynthia G. Beam, Esquire  
Delaware State Bar I.D. No. 2565  
1001 Jefferson Plaza, Suite 202  
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(302) 652-3611  
Attorney for Defendant Dr. Sylvia Foster

Dated: October 5, 2005



IN THE UNITED STATES DISTRICT COURT  
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Plaintiff,	)	
v.	)	
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CHAMBERLIN, SEGAL J., TANYA	)	
WILSON, J. CONYER, MR. JOHNSON,	)	
JOHN JOE,	)	
	)	
Defendants.	)	

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify on this 5<sup>th</sup> day of October, 2005 that two true and correct copies of Defendant Dr. Sylvia Foster's Motion to Dismiss for Lack of Subject Matter Jurisdiction have been served electronically and/or by first class mail, postage prepaid, to the following:

Jimmie Lewis  
SBI#506622  
H.R.Y.C.I.  
P.O. Box 9561  
Wilmington, DE 19809

Phebe S. Young  
Deputy Attorney General  
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